



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 120806311-3213-01]

RIN 0648-BC25

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 42 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). If approved, these regulations would revise the annual economic data reports (EDRs) currently required of participants in the Crab Rationalization Program (CR Program) fisheries. The EDRs include cost, revenue, ownership, and employment data that the North Pacific Fishery Management Council (Council) and NMFS use to study the economic impacts of the CR Program on harvesters, processors, and affected communities. This proposed action is necessary to eliminate redundant reporting requirements, standardize reporting across participants, and reduce participants' costs associated with the data collection. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Comments must be received no later than [insert date 30 days after the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2012-0111, by any one of the following methods.

- Electronic submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA-NMFS-2012-0111 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “submit a comment” icon on that line.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9<sup>th</sup> Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, telephone number) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous

comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe portable document file (PDF) formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

Electronic copies of Amendment 42, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA), and the categorical exclusion prepared for this action—as well as the Environmental Impact Statement (EIS) prepared for the CR Program—may be obtained from <http://www.regulations.gov> or from the Alaska Region website at <http://alaskafisheries.noaa.gov>. The environmental impacts of the CR Program were analyzed in the Bering Sea/Aleutian Islands Crab Fisheries Final EIS. Due to the nature of this action, it is not predicted to have additional impacts beyond those identified in the EIS. Therefore, NMFS determined that this proposed action was categorically excluded from the need to prepare an environmental assessment under the National Environmental Policy Act. FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, 907-586-7228 or [karen.palmigiano@noaa.gov](mailto:karen.palmigiano@noaa.gov).

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Public Law 108-199, section 801). The Secretary of Commerce approved Amendments 18 and 19 to the FMP on November 19, 2004. NMFS published final regulations implementing the Crab Rationalization Program (CR Program) in 2005 (70 FR 10174, March 2, 2005).

Regulations implementing the FMP, including the CR Program, are located at 50 CFR part 680.

## Background

The CR Program is a limited-access system that allocates crab managed under the FMP among harvesters, processors, and coastal communities. Each year, the quota share (QS) issued to a person yields an amount of individual fishing quota (IFQ), which is a permit providing an exclusive harvesting privilege for a specific amount of raw crab pounds, in a specific crab fishery, in a given season. The size of each annual IFQ allocation is based on the amount of QS held by a person in relation to the total QS pool in a crab fishery. For example, a person holding QS equaling 1 percent of the QS pool in a crab fishery would receive IFQ to harvest 1 percent of the annual total allowable catch (TAC) in that crab fishery.

As part of the CR Program, the Council recommended and NMFS implemented a comprehensive economic data collection program. The CR Program requires participants to complete an annual economic data report (EDR) based on harvesting and processing activities for that fishing season. The Council and NMFS use the EDR to assess the success of the CR Program and develop amendments to the FMP necessary to mitigate any unintended consequences of the CR Program. An annual EDR is currently required for four categories of participants in the CR Program fisheries: catcher vessels, catcher/processors, shoreside processors, and stationary floating crab processors.

The information collected in the EDR is intended to provide comprehensive data to assist the Council and analysts in understanding the costs and benefits of the CR Program on harvesters' and processors' crab operations. Specifically, the Council and analysts use the data to examine changes in usage of the crab, excess harvesting and processing capacity, economic returns, variable costs and revenues, economic efficiency, and the stability of

harvesters, processors and coastal communities. Data submission is mandatory (see regulations at § 680.6(a)). The EDR Program is administered by NMFS through contracts with the Pacific States Marine Fisheries Commission (PSMFC). NMFS collects fees from CR Program participants to recover the costs of administering the EDR (see regulations at § 680.44 for cost recovery fee collection under the CR Program). Section 304(d)(2) of the Magnuson-Stevens Act requires that NMFS collect fees necessary to recover the actual costs directly related to data collection of limited access privilege programs, such as the CR Program.

#### Need for Action

Since the beginning of the CR Program, EDRs containing cost, revenue, ownership, and employment data have been collected by NMFS annually from the harvesting and processing sectors. This comprehensive approach to collecting data was implemented because the data collection programs in place at the time the CR Program began did not collect employment, cost, and sales information necessary to adequately examine how processing plants and vessels were being affected by the implementation of the CR Program. Collection of these data could help the Council understand the economic performance of crab fishermen, determine how this performance has changed after rationalization, and assess what aspects of these changes are specifically attributable to crab rationalization.

Beginning in 2007, NMFS, the Council, the PSMFC, and industry participants initiated a multi-year review of the quality of data collected through the EDRs. Overall, this review process concluded that roughly one-third of the data collected through the annual EDRs are of high quality, one-third have quality limitations that could limit their utility and these concerns would require analysts to adjust their analytical methods and interpretations to accommodate these concerns, and one-third of the data were deemed not reliable for use in

analysis. Additional detail on the EDR data quality review process is provided in Appendix C of the RIR/IRFA and is not repeated here.

In 2010, the Council initiated an analysis to modify the EDR based on the results of its data quality review process and public comment received during the Council's 5-year review of the CR Program. As part of this analysis, the Council considered input from a Center for Independent Experts review of the data collection program that was completed in October 2011 (see Section 2.4.3 of the RIR/IRFA for additional detail). In February 2012, the Council recommended Amendment 42 to the FMP to modify the EDR. This proposed rule would implement the Council's recommended changes to the EDR under Amendment 42. The proposed modifications to the current EDRs are presented in the RIR/IRFA for this action (see Section 2.2. of the RIR/IRFA) and summarized below.

Following the Council's recommendation of Amendment 42, additional industry outreach and Council review of the proposed EDR revisions was carried out to ensure that the revisions were compatible with industry recordkeeping procedures and consistent with the intent of the Council recommendations. In October 2012, the Council reviewed the three proposed EDR forms developed for this action and the draft Paperwork Reduction Act submission. The Council expressed its support that NMFS go forward with this proposed rule.

The first concern identified by the Council with the current EDRs is inaccurate and inconsistently reported data. For example, the current processor EDRs require the reporting of labor information for each crab fishery, including average processing positions, which is intended to provide analysts with information concerning the normal processing staff for a processor. However, the Council and NMFS determined the reported average processing positions do not provide an accurate estimate of the number of staff used, as staff may be reassigned to non-crab tasks with changing plant needs. In some cases, a plant may switch

from one production line to two lines, with large changes in the number of staff. Since instructions provide no reporting directions for these circumstances, reporting may be inconsistent across processors. Therefore, the Council suggested removing this data-reporting requirement, as inaccurately or inconsistently reported data limits its usefulness in analysis.

In addition to data quality limitations, several elements of the data collected under the CR Program are currently collected under other data collection programs. For example, the requirement for catcher vessels to report their fishing activity, including fish ticket numbers, days fishing, and days transiting and offloading, by crab fishery are also collected by the State of Alaska. The Council and NMFS agree these elements are useful for examining operational efficiencies; however, each of these elements is individually available through other data collection sources. Further information on the uses and possible shortcomings of each data element can be found in Section 2.5 and Appendix C of the RIR/IRFA.

In some cases, data collected through the EDR does not duplicate data collected under other collection programs, and so the EDR data provides the Council and NMFS with additional information. However, in the majority of cases, the data collected in the EDRs are already collected under other programs. As a result, submitters must submit the same data more than once, and analysts are required to analyze two separate sets of data for the same variables.

Finally, the cost to industry, both directly through data submission and indirectly through cost recovery funding of program administration, exceeds the estimates of administering and complying with the EDR that NMFS provided in the initial analysis of the CR Program (see ADDRESSES). NMFS' administrative costs associated with the current EDRs result from the production and distribution of data collection forms, processing of

completed forms, data entry, data verification, and data management. These costs are then passed onto CR Program participants annually through the cost recovery fee system.

Since the EDR Program's inception, NMFS' associated administrative costs and fees have decreased. NOAA continues to work with the Council and PSFMC to streamline the data collection and reduce reporting errors. NMFS expects these continuing efforts and the revisions to the EDR proposed in this action to decrease costs further.

For several reasons, the cost of reporting associated with the current crab EDRs is more than what NMFS originally estimated when the EDR program was developed. First, vessel owners and processors are required to consult both annual fishing (i.e., days fishing, days traveling, and days processing) and financial (i.e., landings by share type, sales by species, and fuel costs) records, which often do not follow the same format. Initial estimates of time required to accurately complete an EDR was 7.5 hours per vessel. In 2012, during public testimony, the Council was advised that for the current EDR the actual time required to complete the forms was approximately 45 to 50 hours. The modifications proposed by this rule would reduce duplicative reporting, as well as the time and costs required to complete an EDR.

NMFS proposes changes to the annual crab EDRs that would result in the removal or modification of several reporting requirements. One major change would be the combination of the shoreside processor and floating processor EDR forms. There is currently a form for shoreside processor data submission and another for floating processor data submission. The forms are essentially the same, and the Council believed no information would be lost if the forms were combined into one form. As a result, there would be three separate EDR forms, rather than the current four.

The information below summarizes the changes that are proposed to each of the three EDR forms. Each table displays the information that NMFS would continue to collect from



each submitter (catcher vessels, processors, and catcher/processors). For a more comprehensive description of what information has been removed or modified from the current forms and the reasons for the modifications and deletions, please see Section 2.5 Analysis of Alternatives in the RIR/IRFA.

#### Annual Catcher Vessel Crab EDR

Table 1. Proposed Catcher Vessel Crab EDR. (The table below lists all elements that will be collected in the proposed catcher vessel EDR.)

Deliveries and revenues	Landings by share type (pounds) by crab fishery
	Landings by share type (revenue) by crab fishery
	Market-Value and Negotiated-Price transfers of quota by share type (pounds) by crab fishery
	Market-Value and Negotiated-Price transfers of quota by share type (cost) by crab fishery
Crew Labor Costs	Payments to crew by crab fishery
	Payments to captain by crab fishery
	Health Insurance and Retirement Benefits – available for captain and crew
Vessel Operating Expenses	Food and Provisions - total cost by crab fishery
	Bait purchased – total cost by crab fishery
	Fuel consumed – gallons by crab fishery
	Fuel cost, annual – gallons and cost aggregated for all fisheries
	Labor cost – all activities aggregated across all activities
	Tendering

Much of the data requested on the current annual catcher vessel Crab EDR is available through other sources (e.g., eLandings data collected by NMFS contains information on the specific quota accounts debited during a landing). Further, the quality of some data currently collected is poor and results in limited usefulness of the data for analyses (e.g., estimates of bait used are known to be inaccurate and unreliable). The Council recommended scaling back the data collection in the EDR, including eliminating the data collected in some categories so that only data that could be accurately and reliably collected would be required (See Table 1).

The proposed catcher vessel EDR would substantially decrease the amount of data collected in comparison to the current EDR. The proposed EDR would eliminate the reporting of fishing days, transiting days, and shipyard days as these can all be obtained from other data sets. It would omit any collection of information about overall vessel activities, such as days at sea and gross revenues. The EDR would continue to collect tendering and information associated with labor costs because those data are not available through other sources and were determined to be reliable in the RIR/IRFA prepared for this proposed action (Table 1).

The proposed catcher vessel EDR would continue the collection of revenue data, including landings by share type by crab fishery (pounds and revenue), and market-value or negotiated-price transfers of IFQ and community development quota (CDQ) received for harvest on the vessel during the calendar year, by fishery and harvest quota permit type (pounds and revenue). Data on payments to captains and crew would still be collected by fishery. Crew license and Commercial Fisheries Entry Commission (CFEC) permit numbers would also continue to be collected to facilitate analysis of demographic distribution of crew benefits. The proposed EDR would also require the reporting of vessel costs such as bait, food, and provisions purchased by crab fishery. This is slightly different from the current forms, which require submitters to include the quantity of these items used versus what is purchased. This new data on the quantity of items purchased would provide some understanding of expenditures and would be more easily reported by submitters than the quantity of items used.

#### Annual Shoreside Processor/Stationary Floating Processor Crab EDR

Table 2. Proposed Annual Shoreside Processor/Stationary Floating Processor Crab EDR.

(The table below lists all elements that will be collected in the combined proposed processor EDR.)

	Sales to affiliates/non-affiliates by species (product/process) by crab fishery
	Sales to affiliates/non-affiliates by species (box size and finished pounds) by crab fishery (use box size categories)
	Sales to affiliates/non-affiliates by species (revenues) by crab fishery
	Custom processing by product/process by crab fishery (include pounds raw and pounds of product)
	Custom processing revenues by crab fishery
Labor	Man-hours by crab fishery
	Total processing labor payments by crab fishery
	Crab processing employees by residence by crab fishery
Custom Processing Services Purchased	Reporting requirement – all companies contracting custom processing must report
	Raw pounds by crab fishery
	Product and processes by crab fishery
	Finished pounds by crab fishery
	Processing fee by crab fishery
Crab Purchases	Raw crab purchases by fishery (IFQ type) by crab fishery
	Raw crab purchases by fishery (pounds) by crab fishery
	Raw crab purchases by fishery (gross payments) by crab fishery
Crab Processing Costs	Market-Value and Negotiated-Price transfers of IPQ by (pounds and monetary cost) crab fishery
General Plant Costs	Foreman, managers, other employees and salaries aggregated across all fisheries

The proposed Annual Shoreside Processor/Stationary Floating Processor Crab EDR (Processor EDR) would combine the Annual Shoreside Processor Crab EDR and the Annual Stationary Floating Processor Crab EDR into a processor EDR and would eliminate several elements from the current data collections. Most of the deleted elements represent production data, which are similar to data found within the State of Alaska's Commercial Operators Annual Report (COAR). Crab processors must submit the COAR annually and report processing and plant costs in it. The production data that is not available through other sources could be estimated by NMFS based on landings data. Therefore, the proposed exclusion of these data from the processor EDR would not affect the analysis of EDR data and may decrease the submitter's time burden required to fill in the form. See Table 2 for a

description of the elements that would be retained and those that would be modified in the proposed processor EDR.

Revenue data collected under the proposed processor EDR would remain essentially the same. These data allow analysts to distinguish crab sales to affiliated entities from sales to unaffiliated entities, which is not currently available through other data sources. However, the proposed processor EDR would not require sales data by crab size or grade. Currently, those elements appear to be inconsistently reported and do not appear to correlate with price differences to date. Packing box sizes would continue to be reported by categories. Revenues from custom processing (an arrangement under which a person processes crab on behalf of another) would be added, as that data is currently unavailable from other sources and may provide insights into the costs of processing and markets for custom services in the fisheries. Unlike the current processor EDRs, the proposed processor EDR provides for the reporting of processed output and revenue received for custom processing of CR crab performed for other crab buyers or registered crab receivers (RCR) for each CR fishery in which custom processing was provided.

Reporting of labor data (i.e., man-hours, total processing labor payments, and crab processing employees by residence) would not change from the status quo. Custom processing services purchased would be reported with some differences from the status quo (i.e., excluding crab size and grade and box size). Crab purchases by share type would still be collected. This data is not available from other data sources.

Annual Catcher/Processor Crab EDR

Table 3. Proposed Annual Catcher Processor Crab EDR (The table below lists all elements that would be collected in the proposed catcher/processor EDR.)

Deliveries and revenues – for operations as a catcher vessel	Landings by share type (pounds) by crab fishery
	Landings by share type (revenues) by crab fishery

Revenues	Sales to affiliates/non-affiliates by species (product/process) by crab fishery
	Sales to affiliates/non-affiliates by species (box size and finished pounds) by crab fishery (use box size categories)
	Sales to affiliates/non-affiliates by species (revenues) by crab fishery – FOB Alaska
	Custom processing by species/product/process by crab fishery (include pounds raw and pounds of product)
	Custom processing services provided by crab fishery
IFQ	Market-Value and Negotiated-Price transfers of quota by share type (pounds) by crab fishery
	Market-Value and Negotiated-Price transfers of quota by share type (cost) by crab fishery
Crew	Payments to captain by crab fishery
	Payments to harvest crew by crab fishery (aggregated across harvesting and processing crew)
	Crew license number/CFEC permit number aggregated across all crab fisheries
Custom Processing Services Purchased	Custom processing services purchased (raw pounds) by crab fishery
	Custom processing services purchased (product and process) by crab fishery
	Custom processing services purchased (finished pounds) by crab fishery
	Custom processing services purchased (processing fee) by crab fishery
Crab purchases	Raw crab purchases by fishery (IFQ type) by crab fishery
	Raw crab purchases by fishery (pounds) by crab fishery
	Raw crab purchases by fishery (gross payments) by crab fishery
Crab Costs	Bait used (species/pounds by fishery) purchases by crab fishery
	Bait used (species/cost by fishery) purchases by crab fishery
	Fuel used – gallons by crab fishery (gallons only)
	Food and provisions (cost) purchases by crab fishery
	Other crew expenses purchases by crab fishery
	Market-Value and Negotiated-Price transfers of IPQ by (pounds and monetary cost) crab fishery
Vessel Costs	Foremen, managers, other employees and salaries aggregated across all fisheries
	Fuel – gallons and cost aggregated for all fisheries

Catcher/processors participate in both harvesting and processing. Therefore, the proposed catcher/processor EDR includes elements for the collection of harvesting and processing information.

Much like the proposed Annual Catcher Vessel Crab EDR, the proposed catcher/processor EDR would eliminate the reporting of fishing data (i.e. days in the fishery, days fishing, days traveling, and days processing), as well as production information (i.e. raw crab processed, crab size and grade, and finished pounds) (Table 3). Analysts would have access to this information through other sources. A new section would be added for deliveries and revenues by share type when operating as a catcher vessel. Most catcher/processors are unlikely to operate exclusively as a catcher vessel, but in instances when a catcher/processor operates as a catcher vessel, these data could be important to understanding total catcher vessel revenues in the fishery.

Several elements would remain, including sales by species by packing box size to affiliated entities and unaffiliated entities, custom processing revenue and production, payments to captains and crews, crew license, CFEC permit numbers and residence information, custom processing services purchased, and crab purchases by share type. All this information provides data that is not found in other data collections and is useful to analysts when assessing the CR Program (see Table 3).

Most crab fishing and vessel costs would be omitted. Bait purchases and food and provision purchases would continue to be reported by fishery. Gear purchases (i.e. pots) would not be collected, because pot registration information together with pot pull information, which are collected through other programs, provide analysts with some insights into changes in pot usage. Fuel use would be estimated for each fishery, as well as annual fuel costs. Processing data (i.e., broker fees, repackaging costs, storage costs, and processing

and packing materials) would be eliminated. In most cases, these data are not available on a fishery-by-fishery basis and, therefore, are limited in their usefulness.

Vessel cost data (e.g., insurance premiums, repairs and maintenance, and investments) would be eliminated as much of the current data suffer from data quality limitations. Fishing and processing activities along with product revenues can be estimated with existing data from other sources, such as the eLandings System or the State's COAR report.

#### Other Regulatory Changes

This action proposes to remove the historical EDR requirements from regulations at § 680.6 because they are obsolete. The historical EDR regulations at § 680.6(a) for catcher vessels, § 680.6(c) for catcher/processors, § 680.6(e) for stationary floating crab processors, and § 680.6(g) for shoreside processors describe detailed requirements on historical data submission that are no longer necessary because the application deadline has expired and those forms have already been submitted. The historical EDR was required to be submitted by owners and leaseholders that harvested or processed crab in the BSAI CR program fisheries during 1998, 2001, and 2004. Historical EDRs were required to be submitted for the catcher vessel sector by July 11, 2005, and by June 30, 2005, for catcher/processors, stationary floating crab processors, and shoreside processors. The historical EDRs were required to be submitted only once, and the requirement was concluded upon completion of the validation audits of those EDRs in early 2007. NMFS no longer requires participants in BSAI crab fisheries during the calendar years 1998, 2001, or 2004 to complete any further reports under the § 680.6 EDR requirements.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined this proposed rule is consistent with Amendment 42, the FMP,

other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

#### Regulatory Impact Review (RIR)

An RIR was prepared to assess all cost and benefits of available regulatory alternatives. The RIR considers all quantitative and qualitative measures. Copies of the combined RIR/IRFA are available from NMFS (see ADDRESSES). The Council recommended Amendment 42 based on the benefits it will provide to the Nation, which will be derived from the updating and revision of the current EDRs. Specific aspects of the economic analysis are discussed below.

#### Initial Regulatory Flexibility Analysis (IRFA)

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. Copies of the RIR/IRFA prepared for this proposed rule are available from NMFS (see ADDRESSES). The RIR/IRFA prepared for this proposed rule incorporates by reference an extensive RIR/IRFA prepared for Amendments 18 and 19 to the FMP that detail the impacts of the CR Program on small entities.

The IRFA for this proposed action describes the action, why this action is being proposed, the objectives and legal basis for the proposed rule, the type and number of small entities to which the proposed rule would apply, and the projected reporting, recordkeeping, and other compliance requirements of the proposed rule. It also identifies any overlapping, duplicative, or conflicting Federal rules and describes any significant alternatives to the proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statutes and that would minimize any significant adverse economic impact of



the proposed rule on small entities. The description of the proposed action, its purpose, and its legal basis are described in the preamble and are not repeated here.

After considerable review of the EDR Program, the Council suggested amending the EDR process so that the data collected is accurate, informative to the Council, not redundant with existing reporting requirements, and can be reported and administered at a reasonable cost. Specifically, the Council wants to limit the EDR to the collection of data that have been demonstrated, through the development of the EDR metadata, and other reviews of the data, to be accurate. The Council determined that data collection should be structured and specific elements identified, to minimize costs while maintaining accuracy and providing the greatest information value to the management decision making process.

The EDR is required to be submitted by 74 catcher vessel owners. Based on the definition of a small entity (see section 3.1.1 of the RIR/IRFA for the full definition and discussion of what a “small entity” is), only one vessel owner would be considered a small entity. Instead, because crabs are relatively high value, the majority of harvesters join cooperatives, which allows them to pool their quota.

Three catcher/processor owners would be required to submit catcher/processor data reporting forms under the proposed action. None of the catcher/processors are considered small entities. Nineteen shore-based or floating processors would be required to submit their EDR data. Of these nineteen, four are small entities that are controlled by community development corporations or non-profit entities, and five are estimated to be small entities because they employ fewer than 500 individuals.

This proposed action would require all catcher vessel and catcher/processor operators to report categories of information: ex vessel revenues; market lease revenues; crew compensation; bait, food, and provision purchases; and fuel use by crab fishery. Catcher vessel and catcher/processor operators would also be required to report annual fuel and labor

costs aggregated across all fisheries and identify whether the vessel operated as a tender. Processors and catcher/processors would be required to report crab purchases, custom processing services provided and purchased, crab sales revenue, and processing labor costs.

The reporting requirement under the proposed action is substantially less than required under the current regulations. If adopted, the proposed changes would reduce the record keeping and reporting requirements substantially from the status quo, resulting in reduced administrative expenses for both small and large entities.

#### Description of Significant Alternatives Considered

The Council considered a series of alternatives and different options as it evaluated the potential to revise the annual crab EDRs, including the “no action” alternative. The RIR contains brief summaries of these alternatives. Three alternatives were defined for each of the three sectors: catcher vessels, catcher/processors, and shoreside processors and stationary floating crab processors. All alternatives collect annual reports of activity for the preceding year even though the variables are different for each sector. Three alternatives for the catcher vessel sector were considered: Alternative 1, status quo/no action; Alternative 2, which would reduce the variables collected under the status quo, including the collection of landings and revenues by share type; lease costs; crew information such as crew shares, payments, contracts, settlement sheets; purchases such as pots, fuel, vessel investments, repair, and maintenance; annual costs for insurance and fuel; and the vessel’s annual gross revenues and payments; and Alternative 3, which includes further reduction of data collection from Alternative 2, including limits on data collection to deliveries, revenues, crew data, fuel use, and annual costs. Ultimately, the Council recommended Alternative 3 with slight modifications to exclude the collection of crew contracts and settlement sheets, but includes the collection of crew license or permit numbers, bait purchases by crab fishery, as well as

food and provision purchases by crab fishery (See Table 1 for a full list of data to be collected in the proposed catcher vessel EDR.).

Three alternatives for the catcher/processor sector were also considered: Alternative 1, status quo/no action; Alternative 2, a reduction of variables collected under the status quo, including the collection of landings and revenues from the vessel; custom processing; purchase data such as fuel use; vessel costs; annual gross revenues; and payments to labor; general annual data; leasing and crew information, and Alternative 3, which is a further reduction of data collected from Alternative 2, which limits data collected to leases, gallons of fuel used, IPQ lease costs, sales using box size categories, and custom processing (raw crab and pounds of product). The Council chose Alternative 3 with slight modifications to exclude the collection of crew contracts and settlement sheets, but include the collection of crew license or permit numbers, bait purchases by crab fishery, and food and provision purchases by crab fishery (See Table 2 for a full list of data to be collected in the proposed catcher/processor EDR).

Three alternatives for the combined shoreside processor and stationary floating crab processor were considered. The Council chose to combine data collection for these two types of processors, because the data collection variables are similar. The alternatives considered were: Alternative 1, status quo/no action; Alternative 2, a reduction of variables collected under the status quo, including data collection of first and last day of processing; revenues by fishery; revenues and quantities of custom processed crab products; labor man-hours by crab fishery; costs of IPQ leases, salaries, and general plant costs; and processing information; and Alternative 3, a further reduction of data collection from Alternative 2, which limits data collection to combine data collected for crab fisheries in the aggregate for labor, IPQ lease payments, and revenue and box size information, but also requires revenues to be reported using a standard pricing for Alaska, and custom processing contracts to be reported by each

company. The Council chose Alternative 3 with slight modifications to require reporting requirements on a fishery-by-fishery basis for processing man-hours, total processing labor payments, and number of employees by residence (See Table 3 for a full list of data to be collected in the proposed processor EDR).

#### Additional Alternatives Considered

The Council considered two additional alternatives but both were rejected. First, the Council considered eliminating the EDR program in its entirety. The Council elected not to advance this alternative. Instead, through this proposed action, the Council intends to improve the quality of the data collected and eliminate redundancies with other collections.

The Council also considered eliminating the use of blind formatting, which requires that data adhere to a blind formatting requirement and that data are maintained by a third party data manager. For the crab EDRs, the third party is the PSMFC. It was the opinion of the Council, and was supported by public testimony, that the potential risk associated with the disclosure of data was greater than the perceived benefits of removing the blind formatting requirement. Therefore, PSMFC will continue to abide by all statutory and regulatory data confidentiality requirements and will only release the data to NMFS, Council staff, and any other authorized users in a blind format.

#### Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the PRA. These requirements have been submitted to OMB for approval under the original OMB Control Number 0648-0518. Public reporting burden is estimated to average 10 hours for Annual Catcher Vessel Crab EDR; 10 hours for Annual Catcher/processor Crab EDR; 10 Annual stationary floating crab processor and shoreside crab processor EDR (replacing formerly two separate EDRs); and 8 hours for Verification of Data. Combination of the shoreside processor and stationary floating processor crab EDRs

would be effective with approval of this rule. Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden statement; ways to enhance quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information, to NMFS (see ADDRESSES) and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 14, 2013

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

2. Section 680.6 is revised to read as follows:

§ 680.6 Crab economic data report (EDR).

(a) Requirements. (1) Any owner or leaseholder of a vessel or processing plant, or a holder of a registered crab receiver permit that harvested, processed, or custom processed, CR crab during a calendar year must submit a complete Economic Data Report (EDR) by following the instructions on the applicable EDR form.

(2) A completed EDR or EDR certification pages must be submitted to the DCA for each calendar year on or before 1700 hours, A.l.t., July 31 of the following year.

(3) Annual EDR forms for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors are available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov> or the Pacific States Marine Fisheries Commission (PSMFC) Alaska Crab Rational Program website at [www.psmfc.org/alaska\\_crab/](http://www.psmfc.org/alaska_crab/), or by contacting NMFS at 1-800-304-4846.

(b) EDR certification pages. The owner or leaseholder must submit the EDR certification pages either:

(1) As part of the entire EDR. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(2) As a separate document. The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

(c) Annual catcher vessel crab EDR —Any owner or leaseholder of a catcher vessel that landed CR crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed catcher vessel EDR for annual data for the previous calendar year.

(d) Annual catcher/processor crab EDR —Any owner or leaseholder of a catcher/processor that harvested or processed CR crab in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed catcher/processor EDR for annual data for the previous calendar year.

(e) Annual stationary floating crab processor (SFCP) and shoreside crab processor EDR —Any owner or leaseholder of an SFCP or shoreside crab processor that processed CR crab, including custom processing of CR crab performed for other crab buyers, in the previous calendar year must submit to the DCA, electronically or at the address provided on the form, a completed processor EDR for annual data for the previous calendar year.

(f) Verification of data. (1) The DCA shall conduct verification of information with the owner or leaseholder.

(2) The owner or leaseholder must respond to inquiries by the DCA within 20 days of the date of issuance of the inquiry.

(3) The owner or leaseholder must provide copies of additional data to facilitate verification by the DCA. The DCA auditor may review and request copies of additional data provided by the owner or leaseholder, including but not limited to previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data.

(g) DCA authorization. The DCA is authorized to request voluntary submission of economic data specified in this section from persons who are not required to submit an EDR under this section.

Tables 2, 3c, 4, 5, and 6 [Removed]

3. Remove Tables 2, 3c, 4, 5, and 6 to part 680.

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